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4 ZACHARY THAYER,
5 Plaintiff,
6 v.
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8 PROGRESS FOUNDATION,
9 Defendant.

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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 Case No. 23-cv-02304-SI

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28 **ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING CASE WITHOUT
PREJUDICE FOR FAILURE TO
PROSECUTE**

Re: Dkt. No. 12

On October 3, 2023, Magistrate Judge Sallie Kim issued a Report and Recommendation recommending that this case be dismissed without prejudice for failure to prosecute.

On May 16, 2023, Judge Kim granted plaintiff's application to proceed *in forma pauperis* and issued a Screening Order dismissing plaintiff's complaint with leave to amend. Dkt. No. 4. Plaintiff did not amend his complaint, despite Judge Kim granting plaintiff's motion for an extension of time to file the amended complaint. *See* Dkt. No. 9. On August 15, 2023, Judge Kim issued an Order to Show Cause, to which plaintiff did not respond. *See* Dkt. No. 12. Thereafter, Judge Kim issued her Report and Recommendation. Pursuant to Federal Rule of Civil Procedure 72, objections to the October 3, 2023 Report and Recommendation were due no later than October 20, 2023 (14 days from service of the Report and Recommendation, plus 3 days to allow for mail service). The Court has not received any objection from Mr. Thayer.

The Court has reviewed the Report and Recommendation and agrees with the recommendation that the case be dismissed for failure to prosecute. Accordingly, the Court

1 ADOPTS the Report and Recommendation and DISMISSES this case without prejudice pursuant
2 to Federal Rule of Civil Procedure 41(b).

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5 **IT IS SO ORDERED.**

6 Dated: October 23, 2023

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8 SUSAN ILLSTON
9 United States District Judge

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United States District Court
Northern District of California